IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6245 of 2001

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRABHUDAS RANCHHODDAS PATEL

Versus

STATE OF GUJARAT & ORS.

Appearance:

1. Special Civil Application No. 6245 of 2001

MR IS SUPEHIA for the Petitioner
MR HL JANI, AGP for Respondent No. 1
MR HS MUNSHAW for Respondents Nos. 2-3

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 16/08/2004

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner, a former employee of the District Panchayat, Mehsana (hereinafter referred to as 'the Panchayat'), claims the benefit of pension from the date he retired from service.

By order dated 8th January, 1957 the petitioner was appointed as Chowkidar in Tubewell Division in the workcharge establishment. By order dated 28th June, 1971 the petitioner was made permanent on temporary establishment with effect from 21st October, 1970. On reaching the age of superannuation the petitioner was retired from service on 10th December, 1975.

The present petition has been preferred by the petitioner in the year 2001. He has claimed the benefit of pension for the services rendered by him from the year 1956 to 1975.

The petition is contested by the Panchayat. In the counter affidavit made by the Executive Engineer, Irrigation Division, it is stated that the initial appointment of the petitioner was as Chowkidar. On 1st March, 1961 he was appointed as Tubewell Operator. He continued to serve on the workcharge establishment till his service was made permanent with effect from 21st October, 1970. The Panchayat has relied upon the Government Resolution dated 8th January, 1976. By the said Resolution the service of the workcharge employee has been made pensionable. Paragraph 2(ii) of the said Resolution provides that, "The contributory provident fund scheme which was introduced under Government Resolution, PWD No CPF-1072/1-G (i), dated 7-9-73 is hereby discontinued."

On perusal of the aforesaid Resolution it is apparent that the workcharge service was made pensionable with effect from 8th January, 1976. Prior thereto the workcharge employees were entitled to the benefit of contributory provident fund scheme. Admittedly, the petitioner retired from service on 10th December, 1975 i.e. prior to the date of the Resolution. The petitioner's service was, therefore, not pensionable service. The claim for pension made by the petitioner is not tenable. As stated in the counter affidavit, the petitioner had been paid gratuity in accordance with the prevalent rules. Besides, the claim for pension made more than 25 years of retirement is grossly belated.

In above view of the matter the petition is dismissed. Rule is discharged. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

/sakkaf